

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ROBERT C. EIGNER,

Docket No.: 1:22-CV-01255

Plaintiff,

**PETITION FOR
REMOVAL**

-against-

JOSE ARRUBLA and KVA TRUCKING LLC,

Defendants.
-----X

**TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF NEW YORK**

1. On June 8, 2021, a Summons and Complaint was filed in the Supreme Court of the State of New York, County of Queens, and thereafter served upon defendants on June 15, 2022. The index number is 713035/2021.

2. The above described action is a civil action for which the court has jurisdiction under 28 U.S.C. 1332(a)(1) and is one which may be removed to this court by the petitioner/defendants herein pursuant to the provision of 28 U.S.C. § 1441(a).

3. Plaintiff alleges in his complaint to be a resident of the State of New York. A copy of the Summons and Complaint is annexed hereto as **Exhibit A**. The court's jurisdiction is based upon diversity of citizenship as provided in 28 U.S.C. § 1332(a)(1) in that the plaintiff and defendant is citizens of different states. KVA Trucking LLC is a New Jersey corporation that has its principal place of business at 17 Henry Street, Morristown, New Jersey 07960.00

4. Upon information and belief, the amount in controversy exceeds \$75,000 in that plaintiff sustained severe injuries in the accident. See police investigation report, **Exhibit B**.

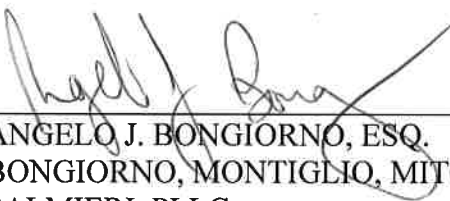
5. Petitioner/defendants will pay all costs and disbursements incurred by reason of the removal proceedings hereby brought should it be determined that this action is not removable or is improperly removed.

6. Venue in the Eastern District of New York is proper pursuant to 28 U.S.C. § 112 and 28 § U.S.C. 1391(a).

WHEREFORE, petitioner prays that the above action now pending against it in the Supreme Court of the United States, County of Queens, be removed therefrom to the United States District Court for the Eastern District of New York in accordance with U.S.C. § 1441(a) and § 1445.

Dated: Mineola, New York
March 7, 2022

By:



ANGELO J. BONGIORNO, ESQ.
BONGIORNO, MONTIGLIO, MITCHELL &
PALMIERI, PLLC
Attorneys for Defendants
JOSE ARRUBLA and KVA TRUCKING LLC
200 Old Country Road, Suite 680
Mineola, New York 11501
(516) 620-4490
Our File No.: SEDNS 027022 AJB

TO: TARASOV & ASSOCIATES, P.C.
Attorneys for Plaintiff
2566 86th Street, Suite 2
Brooklyn, New York 11214
(718) 368-0690
File No.: 17731

EXHIBIT “A”

FILED: QUEENS COUNTY CLERK 06/08/2021 03:07 PM

NYSCEF DOC. NO. 1

RECEIVED NYSCEF: 06/08/2021

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

ROBERT C. EIGNER,

Plaintiff,

-against-

JOSE ARRUBLA and KVA TRUCKING LLC,

Defendants,

-----X Index No.: _____

Date purchased: 6.8.2021

SUMMONS

Plaintiff designates QUEENS
County as the Place of TrialBasis of venue: Place of
occurrence

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service of this summons, or within 30 days after the service of this summons is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to appear to answer, judgment will be taken against you by default for the relief demanded in the complaint, together with the costs of this action.

Dated: Brooklyn, New York
June 8, 2021

Yours, etc.,



Igor Tarasov, Esq.
TARASOV & ASSOCIATES, P.C.
Attorneys for Plaintiff
2566 86th Street, Suite 2
Brooklyn, New York 11214
(718) 368-0690
File No.: 17731

DEFENDANTS' ADDRESS:

JOSE ARRUBLA
KVA TRUCKING LLC
17 Henry Street
Morristown, New Jersey 07960

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

ROBERT C. EIGNER,

Plaintiff,

-against-

Index No.: _____

VERIFIED COMPLAINT

JOSE ARRUBLA and KVA TRUCKING LLC,

Defendants.

Plaintiff, ROBERT C. EIGNER, by his attorneys LAW OFFICES OF TARASOV & ASSOCIATES, P.C., complaining of the defendants, respectfully alleges, upon information and belief, as follows:

1. That at all times herein mentioned, plaintiff, ROBERT C. EIGNER, was and still is a resident of the County of Queens, City and State of New York
2. That at all times herein mentioned, defendant, JOSE ARRUBLA, was, and still is, a resident of the State of New Jersey.
3. That at all times herein mentioned, defendant, KVA TRUCKING LLC, was and still is a foreign limited liability company, duly organized and existing under and by virtue of the laws of a state other than the State of New York but licensed to do business within the State of New York.
4. That at all times herein mentioned, defendant, KVA TRUCKING LLC, was and still is a foreign business entity, duly organized and existing under and by virtue of the laws of a state other than the State of New York but licensed to do business within the State of New York.
5. That at all times herein mentioned, defendant, KVA TRUCKING LLC, was the owner of a certain 2019 Western Star motor vehicle bearing New Jersey State registration number AU572R.
6. Upon information and belief, that at all times and places hereinafter mentioned, defendant, KVA TRUCKING LLC, was the lessee of the aforesaid motor vehicle bearing New Jersey State

registration number AU572R.

7. Upon information and belief, that at all times and places hereinafter mentioned, defendant, KVA TRUCKING LLC, was the lessor of the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

8. Upon information and belief, that at all times and places hereinafter mentioned, defendant, KVA TRUCKING LLC, maintained the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

9. Upon information and belief, that at all times and places hereinafter mentioned, defendant, KVA TRUCKING LLC, managed the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

10. Upon information and belief, that at all times and places hereinafter mentioned, defendant, KVA TRUCKING LLC, controlled the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

11. Upon information and belief, that at all times and places hereinafter mentioned, defendant, KVA TRUCKING LLC, inspected the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

12. Upon information and belief, that at all times and places hereinafter mentioned, defendant, KVA TRUCKING LLC, repaired the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

13. That at all times herein mentioned, defendant, JOSE ARRUBLA, was the operator of a certain 2019 Western Star motor vehicle bearing New Jersey State registration number AU572R.

14. That on March 30, 2021, and at all times hereinafter mentioned defendant, JOSE ARRUBLA, operated the aforementioned motor vehicle with the express permission of defendant, KVA TRUCKING LLC.

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15. That on March 30, 2021, and at all times hereinafter mentioned defendant, JOSE ARRUBLA, operated the aforementioned motor vehicle with the express consent of defendant, KVA TRUCKING LLC.

16. That on March 30, 2021, and at all times hereinafter mentioned defendant, JOSE ARRUBLA, operated the aforementioned motor vehicle with the express knowledge of defendant, KVA TRUCKING LLC.

17. That on March 30, 2021, and at all times hereinafter mentioned defendant, JOSE ARRUBLA, operated the aforementioned motor vehicle with the implied permission of defendant, KVA TRUCKING LLC.

18. That on March 30, 2021, and at all times hereinafter mentioned defendant, JOSE ARRUBLA, operated the aforementioned motor vehicle with the implied consent of defendant, KVA TRUCKING LLC.

19. That on March 30, 2021, and at all times hereinafter mentioned defendant, JOSE ARRUBLA, operated the aforementioned motor vehicle with the implied knowledge of defendant, KVA TRUCKING LLC.

20. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, was the lessee of the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

21. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, was the lessor of the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

22. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, maintained the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

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23. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, managed the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

24. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, controlled the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

25. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, inspected the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

25. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, repaired the aforesaid motor vehicle bearing New Jersey State registration number AU572R.

27. That at all times and places hereinafter mentioned, Beach Channel Drive, at or near its intersection with Beach 35th Street, in the County of Queens, City and State of New York, was and still is a public street/highway in common use of the residents of the City and State of New York and others.

28. That at all times mentioned herein, plaintiff, ROBERT C. EIGNER, was lawfully and properly operating a motor vehicle at the aforementioned location.

29. Upon information and belief, that at all times and places hereinafter mentioned, defendant, JOSE ARRUBLA, was responsible for the proper and prudent operation of the aforesaid motor vehicle.

30. That on March 30, 2021, at the aforementioned location, the aforesaid motor vehicle, owned by defendant, KVA TRUCKING LLC and operated by defendant, JOSE ARRUBLA, struck the motor vehicle, owned and operated by plaintiff, ROBERT C. EIGNER.

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31. That on March 30, 2021, at approximately 9:50 AM, at the aforementioned location, the aforesaid motor vehicle, owned by defendant, KVA TRUCKING LLC and operated by defendant, JOSE ARRUBLA, came into contact with the motor vehicle, owned and operated by plaintiff, ROBERT C. EIGNER.

32. That as a result thereof, the plaintiff, ROBERT C. EIGNER, was caused to sustain severe and serious injuries.

33. That the aforesaid occurrence was caused wholly and solely by reason of the negligence of the defendants.

34. That defendants were negligent, careless and reckless in the ownership, operation, management, maintenance, supervision, use and control of the aforesaid motor vehicle and the defendants were otherwise negligent, careless and reckless under the circumstances then and there prevailing.

35. That as a result of the aforesaid occurrence, the plaintiff, was rendered sick, sore, lame and disabled and has remained so since the said occurrence. The plaintiff, ROBERT C. EIGNER, continues to suffer mental anguish and great physical pain. He has been compelled to undergo medical aid, treatment and attention and expend money and incur obligations for physicians' services, medical and hospital expenses for the care and treatment of his injuries; and upon information and belief, he will be compelled to expend additional sums of money and incur further obligations in the future for additional physicians' services, medical and hospital expenses for the further care and treatment of his injuries. Plaintiff, ROBERT C. EIGNER, has been incapacitated from attending to his usual duties, functions, occupations, vocations and avocations, and in other ways he was damaged, and upon information and belief may be so incapacitated in the future and will suffer pecuniary losses.

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36. That by reason of the foregoing, plaintiff, ROBERT C. EIGNER, sustained a serious injury as defined by New York State Insurance Law Section 5102(d).

37. That by reason of the foregoing, plaintiff sustained serious injuries and economic loss greater than basic economic loss as defined by Section 5104 of the New York State Insurance Law.

38. That plaintiff, ROBERT C. EIGNER, is not seeking to recover any damages for which plaintiff has been reimbursed by no-fault insurance and/or for which no-fault insurance is obligated to reimburse plaintiff. Plaintiff is seeking only to recover those damages not recoverable through no-fault insurance under the facts and circumstances of this action.

39. The amount of damages sought in this action by plaintiff, ROBERT C. EIGNER, exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, plaintiff, ROBERT C. EIGNER, demands judgment against defendants, JOSE ARRUBLA and KVA TRUCKING LLC, in an amount which exceeds the jurisdictional limitations of all lower courts which would otherwise have jurisdiction over this action: together with the interest, costs and disbursements.

Dated: Brooklyn, New York
 June 8, 2021

Yours, etc.,



Igor Tarasov, Esq.
 TARASOV & ASSOCIATES, P.C.
 Attorneys for Plaintiff
 2566 86th Street, Suite 2
 Brooklyn, New York 11214
 (718) 368-0690
 File No.: 17731

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STATE OF NEW YORK)
)ss.:
 COUNTY OF KINGS)

The undersigned, IGOR TARASOV, ESQ., an attorney at law, admitted to practice law in the Courts of the State of New York, affirms the following under the penalties of perjury:

That he is a PRINCIPAL of the firm of LAW OFFICES OF TARASOV & ASSOCIATES, P.C., attorneys for Plaintiff in the above-entitled action.

That he has read the foregoing **SUMMONS and COMPLAINT** and knows the contents thereof, and upon information and belief, deponent believes that matters alleged therein to be true.

The reason this Verification is made by deponent and not by Plaintiff is because Plaintiff is an individual and resides in another county from where affirmant maintains his office.

The source of deponent's information and the ground of his belief are communications, paper, reports and investigations contained in the file.

Dated: Brooklyn, New York
 June 8, 2021



Igor Tarasov, Esq.

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

ROBERT C. EIGNER,

Plaintiff,

-against -

JOSE ARRUBLA and KVA TRUCKING LLC,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

LAW OFFICES OF TARASOV & ASSOCIATES, P.C.

Attorneys for Plaintiff
2566 86th Street
Brooklyn, New York 11214
Phone: (718) 368-0690
Fax: (718) 368-0692

EXHIBIT “B”

Page 1 of 2 Pages

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT (NYC)
MV-104AN (7/11)Precinct
101
Accident No.
MV-2021-101-000177Complaint
Number☐ AMENDED REPORT

Accident Date Month 3 Day 30 Year 2021	Day of Week TUESDAY	Military Time 09:50	No. of Vehicles 2	No. Injured 0	No. Killed 0	Not Investigated at Scene <input checked="" type="checkbox"/> Reconstructed <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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VEHICLE 1		VEHICLE 2	
Driver License ID Number 521001533	State of Lic. NY	Driver License ID Number A76284106108751	State of Lic. NJ
Driver Name - exactly as printed on license EIGNER, ROBERT, COREY	Apt. No.	Driver Name - exactly as printed on license ARRUBLA, JOSE	Apt. No.
Address (Include Number & Street) 5610 BEACH CHANNEL DR	City or Town QUEENS	Address (Include Number & Street) 17 HENRY ST	City or Town MORRISTOWN

Date of Birth Month 10 Day 30 Year 1977	Sex M	Unlicensed <input type="checkbox"/>	No. of Occupants 1	Public Property Damaged <input type="checkbox"/>	Date of Birth Month 10 Day 30 Year 1977	Sex M	Unlicensed <input type="checkbox"/>	No. of Occupants 1	Public Property Damaged <input type="checkbox"/>
---	-----------------	--	------------------------------	---	---	-----------------	--	------------------------------	---

Name - exactly as printed on registration EIGNER, ROBERT, COREY	Sex M	Date of Birth Month 10 Day 30 Year 1977	Name - exactly as printed on registration KVA TRUCKING LLC	Sex U	Date of Birth Month 10 Day 30 Year 1977
Address (Include Number & Street) 5510 BEACH CHANNEL DR	Apt. No.	Haz. Mat. Code	Address (Include Number & Street) 17 HENRY ST	Apt. No.	Haz. Mat. Code
City or Town QUEENS	State NY	Zip Code 11692	City or Town MORRISTOWN	State NJ	Zip Code 07960

Plate Number KHP1447	State of Reg. NY	Vehicle Year & Make 2000 ME BE	Vehicle Type SEDAN	Ins. Code 328	Plate Number AU572R	State of Reg. NJ	Vehicle Year & Make 2019 WESTERN STAR	Vehicle Type DUMP	Ins. Code 169
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Ticket/Arrest Number(s)	Violation Section(s)	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.
-------------------------	----------------------	--

Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.	Check if involved vehicle is: <input type="checkbox"/> more than 95 inches wide; <input type="checkbox"/> more than 34 feet long; <input type="checkbox"/> operated with an overweight permit; <input type="checkbox"/> operated with an overdimension permit.
--	--

VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes	VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more Damage Codes
---	---

Reference Marker	Coordinates (if available) Latitude/Northing: 40.59626 Longitude/Easting: -73.76773	Place Where Accident Occurred: <input type="checkbox"/> BRONX <input type="checkbox"/> KINGS <input type="checkbox"/> NEW YORK <input checked="" type="checkbox"/> QUEENS <input type="checkbox"/> RICHMOND Road on which accident occurred BEACH CHANNEL DRIVE (Route Number or Street Name) at 1) Intersecting street BEACH 35 STREET (Route Number or Street Name) or 2) <input type="checkbox"/> N <input type="checkbox"/> S <input type="checkbox"/> E <input type="checkbox"/> W of _____ (Nearest Intersection Route Number or Street Name)
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Accident Description/Officer's Notes AT TPO DRIVER OF VEHICLE 1 STATES HE WAS PASSING VEHICLE 2 ON THE RIGHT SIDE WHEN VEHICLE 2 WAS MERGING INTO LANE CAUSING VEHICLE 1 TO SIDE SWIPE VEHICLE 2. DRIVER OF VEHICLE 2 STATES HE WAS IN THE LANE GOING STRAIGHT MERGING INTO LANE WHEN VEHICLE 1 CAME TO HIS RIGHT SIDE CAUSING A SIDE SWIPE. NO INJURIES.	
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8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
1	1	4	1	43	M	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2	1	4	1	45	M	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	

Officer's Rank and Signature POM Print Name PAUL V BELLINO	Tax ID No. 965948	NCIC No. 03030	Precinct 101	Post/Sector	Reviewing Officer SGT PAUL M IANOALE	Date/Time Reviewed 03/30/2021 14:28
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PERSONS KILLED OR INJURED IN ACCIDENT (Letter designation of persons killed or injured must correspond with letter designation on front).

Last Name		First	M.I.	Last Name		First	M.I.
Address				Address			
Date of Birth		Telephone (Area Code)		Date of Birth		Telephone (Area Code)	
Month	Day	Year	()	Month	Day	Year	()
Last Name		First	M.I.	Last Name		First	M.I.
Address				Address			
Date of Birth		Telephone (Area Code)		Date of Birth		Telephone (Area Code)	
Month	Day	Year	()	Month	Day	Year	()
Last Name		First	M.I.	Highway Dist. at Scene? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
Address				Name:			
Date of Birth				Shield No.			
Month	Day	Year	()				

ENTER INSURANCE POLICY NUMBER FROM INSURANCE IDENTIFICATION CARD, EXPIRATION DATE (IN ALL CASES), AND VIN.

Vehicle No. 1 2522812C0232A Vehicle No. 2 ACP2900003178
 Expiration Date 09/02/2022 Expiration Date 03/05/2022
 VIN WDBJF65J4YB008527 VIN 5KXMAVDV6K1KH7376

WITNESS (Attach separate sheet, if necessary)
 Name _____ Address _____ Phone _____

DUPLICATE COPY REQUIRED FOR:

☐ Dept. of Motor Vehicles
 (If anyone is killed/injured)

☐ Motor Transport Division
 (P.D. vehicle involved)

☐ NYC Taxi & Limousine Comm.
 (If a Licensed taxi or limousine
 involved)

☐ Other City Agency
 (Specify) _____

☐ Office of Comptroller
 (If a City vehicle involved)

☐ Personnel Safety Unit
 (If a P.D. vehicle involved)

☐ Highway Unit _____

NOTIFICATIONS: (Enter name, address, and relationship of friend or relative notified, if aided person is unidentified, list Missing Person Squad member who was notified. In either case, give date and time of notification.)

PROPERTY DAMAGED (other than vehicles)

OWNER OF PROPERTY (include city agency, where applicable)

IF NYPD VEHICLE IS INVOLVED:

Police Vehicle		Operator's First Name		Last Name	Rank	Shield No.	Tax ID. No.	Command
Make of Vehicle	Year	Type of Vehicle	Plate No.		Dept. Vehicle No.	Assigned To What Command		
Equipment in Use At Time of Accident								
<input type="checkbox"/> Siren	<input type="checkbox"/> Horn	<input type="checkbox"/> Turn Light	<input type="checkbox"/> 4-Way Flasher	<input type="checkbox"/> High-Level Warning Lights	<input type="checkbox"/> Traffic Cones	<input type="checkbox"/> Headlights		

ACTIONS OF POLICE VEHICLE

☐ Responding to Code Signal
☐ Pursuing Violator
☐ Other (Describe) _____

☐ Complying with Station House Directive
☐ Routine Patrol

Side Swipe (same dir) : MV-2021-101-000177

Reporting Officer : POM PAUL V BELLINO

Reviewing Officer : SGT PAUL M IANUALE Reviewed Date : 03/30/2021 14:28

